IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.6532 of 2002**

DATE OF DECISION: October 10, 2006

JARNAIL SINGH & ANR. ...PETITIONERS

VERSUS

STATE OF PUNJAB & ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MRS. JUSTICE NIRMAL YADAV.

PRESENT: MR. ONKAR RAI, ADVOCATE FOR
MRS. MANJEET KAUR, ADVOCATE FOR THE PETITIONERS.
MR. C.M. MUNJAL, SR.ADDL.A.G., PUNJAB.
MR. I.S. VIMAL, ADVOCATE FOR RESPONDENT NO.3.

ASHUTOSH MOHUNTA, J.

The petitioners have impugned the orders, Annexure P-4, P-6 & P-7 by which it has been held that they are in unauthorized possession of the land in dispute and accordingly been ordered to be evicted.

The facts of the case are that the Gram Panchayat of village Jallowal, District Jalandhar filed a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 against the present petitioners for their eviction on the ground that the petitioners are in unauthorized possession of the land in dispute since 1986-87.

Counsel for the petitioners have argued that in the jamabandi for the year 1996-97, the land in dispute is described as *Mushtarka Malkan*, therefore, the Gram Panchayat has no right to claim eviction of the petitioners over this land. However, a perusal of the aforementioned jamabandi shows that khewatdars of the village had given this land to the Gram Panchayat for their income. It is on the basis of this that the Gram

Panchayat is being leasing out the land by auctioning the same. In case, where the *Mustarka Malkan* land is being managed and controlled by the Gram Panchayat and the income is being used for the benefit of the village then in such cases, the Gram Panchayat can always seek the eviction of the persons who are in unauthorized occupation of the land as has been done in the present case. The land in dispute was being managed by the Gram Panchayat and the same was being given on lease. The petitioners had also taken the land on lease and as on the expiry of the lease period they did not deliver the possession of the land to the Gram Panchayat, therefore, the petition under Section 7 of the Punjab Village Common Lands (Regulation) Act filed by the Gram Panchayat was maintainable and the eviction of the petitioners has rightly been ordered by all the revenue authorities.

The petitioners have failed to show any evidence as to how they can retain the possession over the land in dispute, once the lease period had expired. In view of the above, we find no infirmity in the impugned orders, Annexure P-4, P-6 & P-7 and accordingly, the writ petition is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

October 10, 2006
Gulati

(NIRMAL YADAV)
JUDGE